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Crackdown on activism, a cause for concern

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Countering peaceful civil disobedience protests with criminal prosecution, and using harsh punishments to stifle dissent, point to a disturbing trend.

Non-governmental organisations and their activists play an essential role in representative democracies. Like journalists and other watchdogs of society, they are part of the vanguard against tyranny. Their actions are often inconvenient to politicians, but the service they render to the political system should not be underestimated. However, there is an increasing and disturbing trend of answering civil disobedience and peaceful protests with criminal prosecution, and using harsh, disproportionate punishments as a means to stifle dissent and restrict freedom of expression.

Just looking at Greenpeace, an organisation that strictly adheres to its core values of non-violent direct action, there are several prominent examples of activists attracting harsh treatment from authorities over the last few years alone. During the climate conference in Copenhagen in December 2009, for example, four Greenpeace activists were held for 20 days in preventive detention for gate-crashing a banquet held by the Danish Queen and unfurling banners. This reaction by the Danish justice system to the "Red Carpet Four" was a particularly intimidating act, considering the peaceful nature of the activity.

More than a year earlier on the other side of the globe, anti-whaling activists Junichi Sato and Toru Suzuki were subjected to similar arbitrary detention. They had intercepted a box of whale meat, embezzled from the taxpayer-funded whaling programme, and handed it over to the public prosecutor as proof of the illegal trade. Remarkably, it was them, and not the whale-meat traffickers, who were arrested. They were held for 26 days – 23 of them without charge – before being charged with trespass and theft, and put on trial by a justice system that refuses to investigate whale meat embezzlement.

In both cases there was no justification for such extended periods of detention, especially since Greenpeace and the activists involved cooperated honestly and willingly with the investigations. In the case of the Tokyo Two, as Sato and Suzuki are known, the fact that after two years they are still defending themselves in court is particularly unjustifiable.

The United Nations Working Group on Arbitrary Detention agrees with this argument: it recently adopted an opinion that the Tokyo Two were arbitrarily detained by the authorities, and that the Japanese authorities have failed to respect their human rights, including freedom of opinion and expression.

What is of particular concern in these cases is that both Denmark and Japan are First World democracies that have signed and ratified the U.N. International Covenant on Civil and Political Rights (ICCPR). Based on the Universal Declaration of Human Rights, the ICCPR is a significant measure to make sure that basic human rights are

respected and ensured by all parties. Lengthy and arbitrary detention of activists not only constitutes a violation of the ICCPR, but creates what the European Court of Human Rights describes as a “chilling effect,” in that the fear of repercussions from authorities works to discourage further peaceful dissent that is essential to a free and open society.

The Red Carpet Four and the Tokyo Two all face jail sentences. This highlights the growing tendency of authorities to resort to criminal law in a quick and disproportionate manner. This is a matter of deep concern, as it is a sign of justice systems being used as tools to rein in the freedom of expression and the political liberty of citizens.

It may have been 30 years since Japan ratified the ICCPR, but the U.N. Human Rights Committee has repeatedly called upon it, most recently in 2008, to improve the situation in relation to human rights across 26 different categories, including freedom of expression.

The case of the Tokyo Two provides a clear sign that the Japanese authorities are not living up to the country's obligations under the ICCPR. What is equally a matter of concern is that neither are its fellow-signatories doing so. All governments that have ratified the ICCPR must ensure that its principles are upheld, not only in their own country but universally. It is an international treaty and the defence of human rights is an international obligation. It is unacceptable to simply say “not my country, not my problem.”

The severe reactions by police and legal systems against the Red Carpet Four and the Tokyo Two constitute flagrant violations of the freedom of expression and the right to peaceful protest, rights guaranteed by the European and International Conventions on Human Rights. These cases stand as a warning to everyone of what the future may hold if governments are allowed to simply ignore their obligations and disrespect the fundamental rights of citizens and NGOs whose intentions are to contribute to a better world for all.

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